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EXAMINER

SALIARD, SHANNON S

ART UNIT

PAPER NUMBER

3639

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/644,615	Applicant(s) MCKENNA ET AL.	
	Examiner Shannon S. Saliard	Art Unit 3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/19/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. **Claims 5, 7, and 8** are objected to because of the following informalities:

As per **claim 5**, the limitation "including the forming the customer profile" appears to contain grammatical errors. Appropriate correction is required.

As per **claim 7**, the limitation "the a variety of vacation" appears to contain grammatical errors. Appropriate correction is required.

As per **claim 8**, the limitation "attaining and improved implementation" appears to contain grammatical errors. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1, and 3-9** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 3-10, 13-22, 24-28, and 31-35 are replete with indefinite and functional or operational language. The structure and processes, which make up the Applicant's invention, must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative invention. Appropriate correction is required in all claims listed above as well as any other subsequent claims.

As per **claims 1 and 22**, the limitation “products and services offered by an out-of-home provider to a customer’s personal preferences” as recited is vague and indefinite. It is unclear to the Examiner what defines “an out of home provider”. Is the provider outside of his or her home? Or is the provider outside of the customer’s home? Appropriate correction is required.

As per **claims 1 and 22**, the limitation “creating a customer profile; collecting data about a customer’s preference” is vague and indefinite. It is unclear to the Examiner the difference between creating a customer profile and collecting data about a customer’s preference. Isn’t the customer’s preference data included in the customer profile? Appropriate correction is required.

As per **claims 1 and 22**, the limitation “the customer’s” in line 6 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 1 and 22**, the limitation “the customer’s out-of-home experience” as recited is vague and indefinite. It is unclear to the Examiner what an “experience” entails. Is the experience emotional? Or physical? If physical, then the claim is directed to non-statutory subject matter under 35 U.S.C. 101. Appropriate correction is required.

As per **claims 1 and 22**, the limitation “using a decision tree to customize the customer’s out-of-home experience based on the collected data” as recited is vague and indefinite. It is unclear to the Examiner how an experience can be customized based on collected data. Merriam Webster’s Collegiate Dictionary, 10th Edition, page 409, defines an experience as “the fact or state of having been affected by or gained

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knowledge through direct observation or participation". Thus, an experience is something that has happened in the past. Therefore, an experience cannot be customized using a decision tree. Appropriate correction is required.

As per **claim 3 and 24**, the limitation "improve the out-of-home experience" as recited is vague and indefinite. It is unclear to the Examiner how improvement is indicated. Is an improvement making the customer happy? Or is an improvement reducing the price of a product or service? Appropriate correction is required.

As per **claim 3 and 24**, the limitation "customers and patrons" as recited is vague and indefinite. It is unclear to the Examiner what the difference is between a customer and a patron.

As per **claims 4 and 25**, the limitation "integrating the out-of-home provider facilities with desires" as recited is vague and indefinite. It is unclear to the Examiner how one would integrate a structure with a subjective state. Appropriate correction is required.

As per **claims 4 and 25**, the limitation "the steps of integrating" in line 1 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 4 and 25**, the limitation "the customer" in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 4 and 25**, the limitation "including the steps of integrating the out-of-home provider facilities with desires of the customer, and matching the facilities with the desires of customers" as recited is vague and indefinite. It is unclear to the

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Examiner what the difference between “integrating the out-of-home provider facilities with desires of the customer” and “matching the facilities with the desires of customers”.

As per **claims 4 and 25**, the limitation “matching the facilities with the desires of customers” as recited is vague and indefinite. It is unclear to the Examiner how one could match a facility with a desire. Appropriate correction is required.

As per **claim 5**, the limitation “the customer” in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claim 5**, the limitation “the operator” in line 3 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 6 and 26**, the limitation “the match” in line 1 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 6 and 26**, the limitation “enhancing the match” as recited is vague and indefinite. It is unclear to the Examiner what “enhancing” entails. Is correlating one desire with one facility enough to enhance the match? Or is more required? Appropriate correction is required.

As per **claims 6 and 26**, the limitation “the facility” in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 6 and 26**, the limitation “the customer desires” in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

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As per **claims 6 and 26**, the limitation "effected" as recited is vague and indefinite. It is unclear to the Examiner what "effected" means. How does historical record affect enhancement? Appropriate correction is required.

As per **claims 6 and 26**, the limitation "the customer" in line 3 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 6 and 26**, the limitation "data obtained from historical records" is not positively recited. It is unclear to the Examiner how historical records are used, if the historical records were not received. Appropriate correction is required.

As per **claims 7 and 27**, the limitation "the future" in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 7 and 27**, the limitation "customer preferences of the future" as recited is vague and indefinite. It is unclear to the Examiner what Applicant is attempting to set forth. Appropriate correction is required.

As per **claims 7 and 27**, the limitation "the operator" in line 4 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 7 and 27**, the limitation "preferably as provided by the operator" as recited is vague and indefinite. It is unclear to the Examiner if this limitation is included to limit the claim or not. Appropriate correction is required.

As per **claim 8**, the limitation "including attaining an improved level of customer satisfaction and at the same time attaining and improved implementation of the operator's facilities thereby to enhance the operator's business" as recited is vague and

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indefinite. The entire claim is unclear to the Examiner. Appropriate correction is required.

As per **claim 9**, the limitation "the operator" in line 1 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claim 9**, the limitation "the information" in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claim 9**, the limitation "the operator controls a data environment" as recited is vague and indefinite. It is unclear to the Examiner what controls means. Does control mean operator inputs information? Or is the operator responsible for the maintenance of the system? Appropriate correction is required.

As per **claims 10 and 28**, the limitation "selectively" as recited is vague and indefinite. The word selectively implies that the invention may or may not include this limitation. Thus, the claim is not positively recited. Appropriate correction is required.

As per **claims 13-15 and 31**, the limitation "the operator's database" in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claim 16**, the limitation "the operator" in line 1 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 17 and 32**, the limitation "the available services" in line 5 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claim 17**, the limitation "the customer's desires" in line 4 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claim 18**, the limitation "the current bibliographic data of a customer" in line 2 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 19 and 33**, the limitation "creating an integration of itinerary, entitlements, customer profile, accounting, reporting, and pricing" as recited is vague and indefinite. It is unclear to the Examiner what integration means. Is integration just ensuring that the invention contains itinerary, entitlements, customer profile, accounting, reporting, and pricing elements? Or does integration mean that the system is doing something with these elements? Appropriate correction is required.

As per **claims 20 and 34**, the limitation "the requirements" in line 4 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 20 and 34**, the limitation "the system" in line 4 as recited is vague and indefinite. There is insufficient antecedent basis for this limitation in the claim.

As per **claims 20 and 34**, the limitation "selectively" as recited is vague and indefinite. The word selectively implies that the invention may or may not include this limitation. Thus, the claim is not positively recited. Appropriate correction is required.

As per **claims 21 and 35**, the limitation "a time line for affecting a communication stream" as recited is vague and indefinite. It is unclear to the Examiner how

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communication is affected. Does this mean that a call is made? Or someone does not communicate because of the time line? Appropriate correction is required.

As per **claims 21 and 35**, the limitation "enhance the out-of-home experience" as recited is vague and indefinite. It is unclear to the Examiner how enhancing is indicated. Does making the customer happy enhance an experience? Or does enhancing the experience mean reducing the price of a product or service? Appropriate correction is required.

As per **claims 21 and 35**, the limitation "generating a time line for affecting a communication stream to a customer" as recited is vague and indefinite. It is unclear to the Examiner what is being communicated to the customer. Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 1-21**, as currently recited, appear to be directed to nothing more than a series of steps including creating, collecting, storing and analyzing data such as information related to customer preferences without any useful, concrete and tangible result and are therefore deemed to be non-statutory. While the customer data may be concrete and/or tangible, there does not appear to be any useful result.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-20 and 22-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff et al [US 2003/0004760] in view of Campbell et al [US 2003/0144867].

As per **claims 1 and 22**, Schiff et al discloses a method of customizing products and services offered by an out-of-home provider to a customer's personal preferences, the method comprising: creating a customer profile; collecting data about a customer's preferences; storing the collected data in the customer profile [0059; 0090]. Schiff does not disclose and using a decision tree to customize the customer's out-of-home experience based on the collected data. However, Campbell discloses a trip planning module applies logic to a request of a customer, using the preferences and customer profile to build an optimal option for a trip that includes travel reservations best suited to the information collected related to the customer [0049]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include the method of Campbell et al to satisfy the customer requirements.

As per **claims 2 and 23**, Schiff et al further discloses wherein the out-of-home provider is a resort or entertainment operator [0091].

As per **claims 3 and 24**, Schiff et al further discloses including integrating the customer preferences, customer profile and available facilities thereby to improve the out-of-home experience for customers and patrons of facilities out-of-home [0048-0051].

As per **claims 4 and 25**, Schiff et al further discloses including the steps of integrating the out-of-home provider facilities with desires of the customer, and matching the facilities with the desires of customers [0048-0051].

As per **claim 5**, Schiff et al does not explicitly disclose including the forming the customer profile from data obtained from the customer, the customer being a repeat user of one or more facilities of the operator. However, Schiff et al discloses that information on a customer may be stored in a customer information database; the information includes data relating to previous sailing experiences [0059]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include forming the customer profile from data obtained from the customer, the customer being a repeat user of one or more facilities of the operator. Schiff et al provides the motivation that using the customer profile to match attributes allows the booking system to select packages that may be of interest to the traveler [0055].

As per **claims 6 and 26**, Schiff et al further discloses including enhancing the match between the facility of the provider and the customer desires, the enhancement being effected by data obtained from historical records relating to preferences of the customer [0060].

As per **claims 7 and 27**, Schiff et al further discloses wherein integration affects a match between customer preferences of the future with the a variety of vacation,

accommodation, entertainment and travel packages available [0091]. Schiff et al does not explicitly disclose the variety of vacation, accommodation, entertainment and travel packages available are provided by the operator. However, Campbell et al discloses a method of customizing products and services offered by an out-of-home provider to a customer's personal preferences wherein the system is provided by an operator [0013]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include the method disclosed by Campbell et al. Campbell et al provides the motivation using a single operator to control the system provides a single or reduced point of contact [0013].

As per **claim 8**, Schiff et al does not explicitly disclose including attaining an improved level of customer satisfaction and at the same time attaining and improved implementation of the operator's facilities thereby to enhance the operator's business. However, Schiff et al discloses the method allows a customer and/or agent to search for and compare the various packages to find one that best suits the customer needs and desires [0054]. Schiff et al further discloses that the method includes a number of customer management features that increase productivity and booking success rates [0059]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include attaining an improved level of customer satisfaction and at the same time attaining and improved implementation of the operator's facilities thereby to enhance the operator's business. Schiff et al provides the motivation that allowing a customer and/or agent to search for and compare the various packages facilitates finding one that best suits the customer needs and desires

As per **claim 9**, Schiff et al further discloses wherein the operator controls a data environment relating to the information of the customer [0045].

As per **claims 10 and 28**, Schiff et al discloses wherein such data environment is selectively a profile of the customer, including selectively family details, being selectively at least one of the size of the family, age of the family and preferences of the customer or family when they have an out-of-home experience [0090].

As per **claims 11 and 29**, Schiff et al further discloses wherein the out-of-home experience includes at least one of travel mode, accommodation, entertainment or dining [0091].

As per **claims 12 and 30**, Schiff et al further discloses wherein the out-of-home experience includes at least several of travel mode, accommodation, entertainment or dining [0091].

As per **claim 13**, Schiff et al does not explicitly disclose including dynamically changing the operator's database according to changes in the customer profile. However, Schiff et al discloses that an entry of how many persons will be traveling is updated in real time [0156]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include dynamically changing the operator's database according to changes in the customer profile so that the system has accurate information to make the best decisions.

As per **claims 14 and 31**, Schiff et al does not explicitly disclose including dynamically changing the operator's database according to changes available facilities. However, Schiff et al discloses that an entry of how many persons will be traveling is

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updated in real time [0156]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include including dynamically changing the operator's database according to changes available facilities. Schiff et al provides the motivation that the method allows customers to have up-to-date information on packages without spending unnecessary time [0054].

As per **claim 15**, Schiff et al does not explicitly disclose including dynamically changing the operator's database according to changes available facilities. However, Schiff et al discloses that an entry of how many persons will be traveling is updated in real time [0156]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include including dynamically changing the operator's database according to changes available facilities. Schiff et al provides the motivation that the method allows customers to have up-to-date information on packages without spending unnecessary time [0054].

As per **claim 16**, Schiff et al further discloses a database of products and services, selectively including one or more of travel mode, vacation choice, entertainment choice and dining choice [0091]. Schiff et al does not explicitly disclose wherein the operator operates. However, Campbell et al discloses a method of customizing products and services offered by an out-of-home provider to a customer's personal preferences wherein the system is provided by an operator [0013]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include the method disclosed by Campbell et al. Campbell et al provides the

motivation using a single operator to control the system provides a single or reduced point of contact [0013].

As per **claims 17 and 32**, Schiff et al further discloses wherein there is at least two data environments, a first data environment being a customer data environment and a second data environment being of products and services, and including matching the data environments such that the customers desires are strategically matched with the available services and products. Schiff et al does not disclose using a recommender algorithm. However, Campbell et al discloses a trip planning module applies logic to a request of a customer, using the preferences and customer profile to build an optimal option for a trip that includes travel reservations best suited to the information collected related to the customer [0049]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include the method of Campbell et al to satisfy the customer requirements.

As per **claim 18**, Schiff et al further discloses wherein the customer profile includes an entry of the current bibliographical data of a customer, and relating current data to past bibliographical data [0048; 0059].

As per **claims 19 and 33**, Schiff et al further discloses including creating an integration of itinerary, entitlements, customer profile, accounting, reporting, and pricing [0104-0107].

As per **claims 20 and 34**, Schiff et al further discloses including integrating the requirements of the customer, the customer selectively accessing the system by at least one of personal call, travel agent, groups sales or wholesalers [0045; 0049].

8. **Claims 21 and 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiff et al [US 2003/0004760] in view of Campbell et al [US 2003/0144867] as applied to claims 1 and 22 above, and further in view of Khouri et al [US 2003/0069937].

As per **claims 21 and 35**, Schiff et al does not disclose including generating a time line for affecting a communication stream to a customer to enhance the out-of-home experience. However, Khouri et al discloses that information regarding a user reservation is returned during a scheduled period of time [0026; 0035]. Therefore, it would have been obvious at the time of the invention to modify the invention of Schiff et al to include the method disclosed by Khouri et al for the customer satisfaction of knowing when to expect a return communication.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of

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the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shannon S. Saliard whose telephone number is 571-272-5587. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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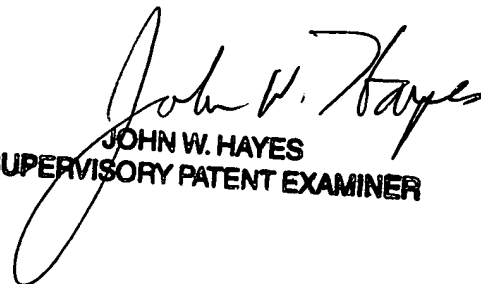
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Shannon S Saliard
Examiner
Art Unit 3639

SSS


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER